

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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IN RE:

JENNIFER AND ISRAEL McKINNEY,  
  
Debtor(s).

Case No. 22-11558  
Chapter 13  
Hon. Rachel M. Blise

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**UNITED STATES' OBJECTION TO CONFIRMATION OF  
DEBTORS' THIRD AMENDED CHAPTER 13 PLAN**

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The United States of America, acting through the Internal Revenue Service (IRS), by Timothy M. O'Shea, United States Attorney for the Western District of Wisconsin, and Theresa M. Anzivino, Assistant United States Attorney, objects to confirmation of the Debtors' third amended Chapter 13 plan, dated January 12, 2024 (the Third Amended Plan). ECF 161.

1. On September 27, 2022, the Debtors filed this chapter 13 case. ECF No. 1.
2. The IRS's timely-filed proof of claim totaled \$1,426,365.43, consisting of a secured component of \$533,484.82, a priority component of \$555,622.65, and a general unsecured component of \$337,257.96 Claim No. 5. Since the IRS filed its claim, it has received funds that it has applied to the tax debt, including funds from the Chapter 13 Trustee that Mrs. McKinney paid in her previous Chapter 13 case, funds from the levy of an IRA account, funds consisting of Mr. McKinney's 2022 tax refund, and multiple adequate protection payments paid during this chapter 13 case.

3. The Debtors filed their first chapter 13 plan on October 21, 2022. ECF 37.

The IRS objected to confirmation of that plan. ECF 72. The Debtors filed an amended plan in April 2023, which resolved many of the IRS's objections to the initial chapter 13 plan. ECF No. 126. However, at the time of filing that first amended plan, the IRS had some concerns about compliance with post-petition tax obligations, mainly with respect to Debtor Ms. McKinney. ECF 131. Those concerns remained, in addition to some issues relating to the calculation of the IRS's secured and priority claim amounts, at the time when the Debtors filed their second amended plan in October 2023. IRS, accordingly, objected to confirmation of the second amended plan. ECF 153.

4. The Third Amended Plan resolved the issues regarding calculation of the IRS's secured and priority claims. The Third Amended Plan, however, fails to include language from previous versions of the Debtors' plans about requirements for the Debtors to remain current on post-petition tax obligations. *See* ECF 126 at 3; ECF 149 at 3. The Debtors had added such language to the previous plans to resolve the IRS's first objection to confirmation, filed in December 2022. ECF 72 at 4-6; *see also* ECF 131 at 2 (noting that amended plan contained default provisions that IRS had requested in its initial objection to confirmation).

5. As previously stated, the IRS will not agree to confirmation of a plan unless the plan includes the IRS's requested language on the Debtors' compliance with post-petition tax obligations. ECF 72 at 4-6.

9. Perhaps the exclusion of this language in the Third Amended Plan was an oversight, but the undersigned counsel was unable to obtain an answer from the Debtors regarding this issue prior to filing this objection. Should the Debtors amend the

plan to include again the requested language, the IRS should be in a position to withdraw this objection to confirmation.

WHEREFORE, the IRS requests that the Court deny confirmation of the Debtors' Third Amended Plan.

Dated January 30, 2024.

Respectfully Submitted,

TIMOTHY M. O'SHEA  
United States Attorney

By:

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